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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,229	06/03/2005	Martin Presche	MY-29PCT	3585
40570	7590	03/23/2006	EXAMINER	
FRIEDRICH KUEFFNER 317 MADISON AVENUE, SUITE 910 NEW YORK, NY 10017			KUMAR, RAKESH	
			ART UNIT	PAPER NUMBER
			3654	
DATE MAILED: 03/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/537,229	PRESCHE ET AL.	
	Examiner	Art Unit	
	Rakesh Kumar	3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on amended claims 06/03/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*Final*

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/03/2005</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "the same length" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the side wall" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the dispensing side" in line 6, 13, 15, and 16. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the dispensing housing" in line 7 and line 22. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the front side" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the container axis" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the housing corner" in line 19. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the dispenser area" in line 25. There is insufficient antecedent basis for this limitation in the claim.

2. Referring to claims 1-13. Claim 1-13 recites numerous multiple limitations throughout the claims that have insufficient antecedent basis (too many to recite) in the claims. It is suggested the Applicant review the limitations and correct antecedent basis issues in all the claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over D.C. Clarke (U.S. Patent Number 2,502,311) in view of Hansen (U.S. Patent Number 5,405,047).

5. Referring to claims 1,11 and 13. Clarke discloses a tablet dispenser holding a large number of tablets (20; Figure 7) and for dispensing them one by one (Col. 1, line 8), comprising two housing halves (members 5 and 15) of the same length which are assembled on each other like a box (see Figure 9); a housing bottom part (5; Figure 1) with a dispensing opening (25; Figure 10) arranged in the side wall (14c; Figure 9) for individual tablets (20) and a housing top part (15) without a front wall at the dispensing side (see Figure 9) with a chase barrier (16) arranged in the interior of the dispensing

housing at the front side (see position of member 16; Figure 7), which are connected in such a way that enables them to be displaced parallel to the container axis in opposite directions (*member 5 and 15 are slidably displaced in the opposite directions along an axis running along side 14c*), by means of this travel the dispensing opening ( 25) is alternately opened (see Figure 10) and closed (see Figure 9), wherein,

(a) the chase barrier (16) is arranged such that its lateral distance to the side wall (side 14c opposite of opening 25; Figure 10) of the housing top part (15c) located at the dispensing side is larger than the diameter of the tablets, and that the side wall (space between end point of walls 8 and 9 and the lateral face of 16 in Figure 7) of the housing bottom part (5) located at the dispensing side (side with the opening 25; Figure 10) is smaller than the diameter of the tablets (20).

(b) a dead storage barrier (23; Figure 6) is arranged in the interior of the dispenser housing (5; Figure 7) on the housing bottom part (5) in the housing corner opposite (see positions in Figure 6) the dispensing opening (25).

(c) the dead storage barrier (23; Figure 6) and the chase barrier (16) in the interior the dispenser housing (10) are designed and arranged to be displaceable relative to each other such that they act together as dosing elements (*see movement relative to each other in Figures 6 and 7*) and with each displacement travel of the

housing halves only one tablet at a time reaches the dispensing area of the dispensing opening (20; see Figure 7).

Clarke does not disclose the chase barrier (16) as having a nose-shaped design with a wider back, which protrudes in steps at the dispensing side.

Hansen discloses a tablet dispenser comprising a chase barrier (see shaded portion below line indicated by member 12; Figure 2) as having a nose-shaped design with a wider back, which protrudes in steps (see layered steps) at the dispensing side.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke and include a chase barrier as having a nose-shaped design with a wider back, which protrudes in steps at the dispensing side as taught by Hansen because the step like restriction of the chase barrier would only allow a single tablet to be dispensed at a time.

6. Referring to claim 2. Clarke discloses a tablet dispenser wherein the dead storage barrier (23) is arranged as far up the front side the dispenser housing (see position of member 23 in Figure 4) located at the dispensing side such (side 14c) that its wider back (the length portion of member 23) abuts the front wall of the housing bottom part (5) in the starting position of the dispenser (position in Figure 9).

7. Referring to claim 3. Clarke does not specifically disclose a tablet dispenser wherein the dead storage barrier (23) partially fills the space between the chase barrier (16) and the side wall (side 14c opposite of opening 26) of the housing bottom part (5).

Hansen discloses a dead storage barrier (*comprising the enclosed area by members 3, 13 and 11*; Figure 3) wherein, the dead storage barrier (*enclosed area by members 3, 13 and 11*) in the housing interior (located inside the outer casing 11) located at the corner of the dispenser housing (11) opposite the dispensing opening (8) is dimensioned such that it at least partially fills the space between the chase barrier (see shaded portion below line indicated by member 12; Figure 2) and the side wall (left side of 11 in Figure 5) of the housing bottom part (Figure 1) at the dispensing side in a starting position of the tablet dispenser (starting position in Figure 3) such that it closes off the space between (see space between member 9 and 13 in Figures 3 and 5) the chase barrier (see shaded portion below line indicated by member 12; Figure 2) and the side wall (left side of 11 in Figure 5) of the housing bottom (Figure 1) part at the dispensing side to the front (see front side of dispenser) with its lower edge (9) and thus prevents any possible trail of tablets around the front of chase barrier (see Figure 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke and include a dead storage barrier in the housing interior, dimensioned such that it at least partially fills the space between the chase barrier and the side wall as taught by Hansen thus, selectively restricting

access to the opening for dispensing tablets, because the disposing a dead storage barrier inline with a chase barrier would allow the dispenser to be smaller in size and effectively restrict the tablet passage such that only one tablet is released per dispensing cycle.

8. Referring to claims 6 and 10. Clarke discloses a tablet dispenser wherein, the front wall (walls 7 and 8: Figure 7) of the housing bottom part (5) located at the dispensing side exhibits a recess (17) whose width is smaller than the tablet diameter (see tablet diameter size) and corresponds to the width of the wide back of the chase barrier (16) and which is closed by means of the inserted wide back of the chase barrier (16) in closed tablet dispenser (Figure 9 and 6).

9. Referring to claim 7. Clarke discloses a tablet dispenser wherein, a cam (21; Figure 4) is arranged on the inside top surface of housing top part (15c) which restricts the displacement of the housing top part (15c) during the dispensing of tablets (20) by abutting the rear front wall of the housing bottom part (5) opposite the dispensing opening (Figure 9 and 10).

10. Referring to claim 12. Referring to claim 12, Clarke discloses a tablet dispenser wherein the two halves of the dispenser housing are connected to each other at both of their longitudinal side walls by means of a detachable locking mechanism (member 14; Figure 3)

11. Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen as applied to claim 1 above, and further in view of Swenson et al. (U.S. Patent Number 3,782,584).

12. Referring to claim 8. Swenson discloses a tablet dispenser wherein, an arched web (30; Figure 2) is arranged on the inside top surface of the top part (14) next to the wall (21; Figure 3), which by contacting the top of wall (21), hampers the unintentional opening and closing of the tablet dispenser and which signals the opening and closing with a tactile sensation (Col. 4 line 1-19).

Swenson does not disclose the arched web as being next to a chase barrier.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen and include a arched web projection as taught by Swenson and providing a hampering means to prevent unintentional opening and closing of the dispenser. In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have disposed the arched web members of Swenson to be positioned next to the chase barrier (16; Clarke) and in contact with the dead storage barrier (23; Clarke).

13. Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen as applied to claim 1 above, and further in view of Makarevitz (U.S. Patent Number 3,773,215).

14. Referring to claim 4. Makarevitz discloses a tablet dispenser wherein for tablets (A; Figure 1) whose thickness is substantially smaller than the housing depth (see Figure 5), an additional ramp-like dosing element (16; Figure 4) is mounted on the housing for pre-dosing the tablets (A) in the interior of the dispenser housing (11) in the intake area toward the dispensing opening (see Figure 1).

Makarevitz does not specifically disclose the tablets as being flat and does not disclose the size of the depth of the housing to be large enough to hold two or more tablets side by side. Furthermore, Makarevitz does not disclose the ramp element being disposed on the bottom part.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen and include the teaching of Makarevitz and make the depth of the housing of the dispenser to be large enough to hold two or more flat tablets side by side and furthermore, modify the inner housing of the dispenser to include a ramp like element to pre dose the tablets such that only a single tablet the dispensing chamber. Because increasing the depth of the housing would allow the dispenser to carry a larger quantity of tablets and by adding a

ramp like element in the bottom of the housing would prevent jamming of tablets in the dispensing as the tablets are dispensed.

15. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen in view of Makarevitz as applied to claim 4 above, and further in view of S. Lowen (U.S. Patent Number 2,918,167).

16. Referring to claim 5. Lowen discloses a tablet dispenser wherein the ramp-like dosing element (38; Figure 5) is concavely shaped (Figure 7) from the bottom side of the housing bottom part with a solid web arranged in this cavity.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen in view of Makarevitz and include a concave shaped ramp for the tablet dispenser as disclosed by the teaching of Lowen and furthermore, dispose multiple web like structures to support the ramp rather than the a solid ramp to prevent deformation because it would reduce the material cost of the dispenser.

17. Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke in view of Hansen as applied to claim 1 above, and further in view of Ackeret (U.S. Patent Number 4,046,255).

18. Referring to claim 9. Ackeret discloses a cassette container (Figure 9) wherein a repositioning device with a spring element (414) is arranged in the area of the housing top part (410) opposite the dispensing opening (see direction of opening; Figure 9) which supports itself at the rear front wall of the housing bottom part (401) and which is tensioned during the dispensing of the cassette by the displacement of the housing top part (410).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Clarke in view of Hansen and include a spring element at the opposite side of the dispensing end as taught by Ackeret to provide a repositioning force during the dispensing of tablets, because it make the closing of the dispenser easier.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK  
March 2, 2006

  
**KATHY MATECKI**  
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